

**CITY OF COLUMBIA FALLS
MINUTES OF THE REGULAR MEETING
HELD APRIL 20, 2015**

Regular Meeting - Transact Routine Business

Mayor Barnhart called the meeting to order at 7:00 p.m. with roll call as follows:

PRESENT: Mayor Barnhart
COUNCIL: Karper, Plevel, Shepard, Fisher and Lovering
ABSENT: Petersen

ROLL CALL

Also present were City Manager Nicosia, City Clerk Staland, City Attorney Breck, Police Chief Perry and Fire Chief Hagen.

Pledge of Allegiance

PLEDGE

APPROVAL OF AGENDA:

Mayor Barnhart requested a motion to approve the agenda. Councilman Fisher motioned to approve the agenda, second by Councilman Plevel, and the motion carried unanimously.

**AGENDA
APPROVAL**

VISITORS/PUBLIC COMMENTS

None

**VISITOR/PUBLIC
COMMENTS**

CONSENT AGENDA:

Councilman Karper moved to approve the consent agenda noting that all claims appeared to be in order, second by Councilman Lovering. Motion carried with Council voting as follows: YES: Karper, Lovering, Plevel, Shepard, Fisher and Barnhart NOES: None. ABSENT: Petersen.

**CONSENT
AGENDA
APPROVAL**

- A. Approval of Claims \$ 169,347.14 - April 20, 2015
- B. Approval of Payroll Claims - \$ 83,261.64 - April 10, 2015
- C. Approval of Regular Meeting Minutes - April 6, 2015
- D. Approve Waste Disposal Agreement with Montana Waste Systems, Inc. and authorize City Manager to sign.

APPOINTMENTS:

A. Volunteer Fireman - Brian Hobday
Fire Chief Hagen and City Manager Nicosia recommended appointing Brian Hobday as Probationary Volunteer Firefighter.
Councilman Karper made motion to appoint Brian Hobday as Probationary Volunteer Firefighter, second by Councilman Lovering and the motion carried with all members voting in favor, Petersen absent.

**APPOINTMENT-
Hobday as
Probationary
Volunteer
Firefighter**

PRESENTATIONS

A. Fish, Wildlife & Parks - Nathan Reiner: Stream Access Rights and Responsibilities.
Nathan Reiner, Game Warden, with the MT Fish Wildlife and Parks

**PRESENTATION
Nathan Reiner with
Fish and Game**

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addressed the Council on the Stream Access Law and how it relates to the trail and Mr. Cahill's property.

Mr. Reiner explained the Stream Access Law and the ordinary high water mark. Warden Reiner also reviewed the recreational activities specified within the Stream Access Law, noting that recreational use means fishing, hunting, swimming, floating in small craft or other flotation devices, boating in motorized craft in specific areas, boating in craft propelled by oars or paddles, other water-related pleasure activities, and related unavoidable or incidental uses. Reiner noted that walking or hiking are not specified activities and to do so, an individual must obtain landowner permission. Mr. Reiner said the trail would have to be below the high water mark to recreate on i.e. fishing, boating, swimming etc. Reiner said overnight camping cannot be within sight of any occupied dwelling or within 500 yards of any occupied dwelling whichever is less. Councilman Lovering asked if the trail is below the high water mark can an individual walk down to the river off of the trail. Mr. Reiner replied only if they are recreating, if they are just walking and not recreating you cannot. Mayor Barnhart said the developer of the Cedar Pointe subdivision has given the public permission to use the open space area or the public would have to access the river from Nucleus Avenue. Mayor said if you live in Cedar Pointe you do not have access to the trail on Mr. Cahill's property unless there is permission. Reiner said that is correct.

Councilman Lovering asked what if a land owner put logs down to the river from his property blocking the trail. Reiner replied a person can go below the low water mark on the property to get around the debris if they are recreating as allowed by the law.

Rick Hanners with the Hungry Horse News asked if somebody can build a trail below the high water mark. Reiner said that would require a permit. Councilman Plevel asked if that would fall under the Flathead Conservation District. City Manager Nicosia said it would be in the City's floodplain district and would require a joint permit with the Flathead Conservation District. Nicosia said she and staff visited the site with Mr. Reiner. The high water mark moves along the property boundary and there are several issues that would have to be worked out if the trail were to be moved. Mr. Reiner said where the trail is and the high water mark is makes this difficult. Mr. Hanners asked if someone could put up a no fishing sign. Mr. Reiner said they can put up a no fishing sign but it may not be enforceable if there was access from a legal point. Hanners asked who enforces violations. Mr. Reiner said if it is not hunting or fishing it would be the City, if it is hunting and fishing Fish, Wildlife and Parks would enforce violators. Nicosia said the easement provides property owner permission to walk across the property (on the easement) whether at the low water mark or high water mark.

Councilman Fisher asked if you are walking with a fishing pole below the low water mark and accessed at the bridge below the high water mark then that would be permitted. Mr. Reiner said that is correct.

Mr. Cahill asked Mr. Reiner if he would comment on the right of the public to make recreation use of class II waters as specified in 23-2-302 (2) (g) "use of a

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streambed or as a right-of-way for any purpose when water is not flowing therein. Warden Reiner noted that this is in reference to dry streambeds. Mr. Cahill said he was not trying to block the trail from walking but there are a few that are violating his property and his back was against the wall. Mayor Barnhart said we will move forward to come to a solution for Mr. Cahill and the City. Council thanked Warden Reiner for attending and providing the information.

UNFINISHED BUSINESS

None

**UNFINISHED
BUSINESS**

NEW BUSINESS:

Local Government Study Commission recommendation. City Manager Nicosia said at the March 30, 2015 Study Commission meeting the Commissioners voted to have the City Council review the City Judge selection by appointment. The commission received a few comments regarding the City Judge position being an elected position instead of appointed. Nicosia added the City Judge is accountable to Council and the position is not a popularity contest, and the Judge is required to attend yearly training. Mayor Barnhart said we are almost a Class II City, and if we are then we would have an election. Nicosia reported that a Class II City is defined as having a population less than 10,000 or more than 5,000 and the statute notes that Class II cities have elected judges. As a Class III city, the Council, by ordinance, may appoint or elect the judge. Nicosia provided Council with the information from the 1992 study commission and the 1993 AGO reinforcing the appointed judge position. Mayor Barnhart said the Study Commissioners believe the City is operating well with our current form of government and without self-governing powers. Council took no action on the recommendation.

**NEW BUSINESS
Local Study
Commission**

ORDINANCES/RESOLUTIONS:

A. Resolution #1695 - Corrected: A Resolution of the City Council of Columbia Falls, Montana Approving the Final Plat of Mountain Watch Subdivision, Located in Gov't Lot 6, Section 6, Township 30 North, Range 20 West, P.M.M., Flathead County, Montana More Particularly Described as Tract 2 of Certificate of Survey No. 9500, Records of Flathead County, Montana.

**RESOLUTION
#1695 Final Plat
Mountain Watch
Correction**

City Manager Nicosia said the resolution sent for recording had an error in the legal description, the Plat Room notified us of the correct property description.

Councilman Shepard motioned to approve the correction to Resolution #1695 with the corrected property description and SIA attached, second by Councilman Lovering with Council voting as follows. YES: Lovering, Plevel, Shepard, Fisher, Karper and Barnhart. NOES: None. ABSENT: Petersen.

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REPORTS/BUSINESS FROM MAYOR & COUNCIL:

Councilman Lovering reported the old business signs at Pony Circus and Harvest Foods are still up. Lovering said she and others visited the Pit to Park for a potential Dog Park and feel the park is unfit to be a park at all, the west side of the property is pretty steep.

Councilman Plevel said she and Lovering have attended meetings with dog enthusiasts and the Pit to Park area of approximately 7 acres is just an eye sore. They would like to see what Plum Creek will do with the area before considering it for a Dog Park. Councilman Plevel said it was important to her to have a dog park in town and believes it would be an asset to the community. Nicosia said in 2003 we used \$100,000 to put in the bike path on 4th Avenue West, leaving a balance of \$30,000 for the Pit to park creation.

Councilman Shepard reported the Columbia Falls Freedom Post was recognized for having new members. Shepard said he would probably have 72 Columbia Falls members signed up by the end of the week. Shepard would like to review the decay ordinance as the downtown appearance does not look good with the tarps in business windows. Nicosia said curtains and tarps are not considered decay; the tax increment tool would be a tool for the City to upgrade the downtown area.

Councilman Fisher said he and his daughter were visiting the City parks and reports they are in great shape. Fisher said there are no signs at Depot park saying not to play on the train. Mayor Barnhart said it is not posted people are allowed to play on the train. Fisher said imagineIF Libraries were awarded Library of the Year by the State Library Association.

Mayor Barnhart said the City has discussed creating a dog park, noting that Dog Parks are typically in larger communities and funded by foundations. Mayor advised to keep in mind there has to be community fundraising for the dog park creation. The Mayor also advised Council when involved with other groups; they cannot take their Council member hat off, as elected officials are always representing the City. Mayor Barnhart noted that the cost of fixing the flashing crossing light on Nucleus was \$3,200. Mayor believes in the future we should look for less expensive options for the pedestrian crossings.

REPORTS/BUSINESS FROM CITY ATTORNEY:

None.

CITY MANAGER:

City Manager Nicosia updated council on the 13th Street Drainage project, noting that it is almost complete and the water easily drained during the weekend rainstorm. The water leak detection was completed and several large leaks were located. The largest is behind Hungry Horse News in the 1" galvanized line that will be replaced in mid-May. Other leaks were at the Laundry/carwash/coffee shop on the Highway, on their side of the curb stop, and a residence in Scenic View. Work has begun on the sewer line on

**REPORTS FROM
MAYOR AND
COUNCIL**

**REPORT FROM
CITY ATTORNEY**

**CITY MANAGER
REPORT**

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Frontage Road. There were some initial difficulties due to the placement of utilities in the road. Watson Excavating has requested 3 additional days on the contract due to the slow work progress.

Nicosia also reported that she and Public Works Director Jenkins met with Anne Scott-Markle and discussed the parking on 1st Ave. West. The street is not wide enough to have angled parking on both sides of the street. Some of the issues, just as wider pavement and sidewalks could be good tax increment district projects.

Nicosia also reported that the 911 Center Board directed the staff to prepare a budget with no more than 1.6% increase for the participating entities. Chief Perry has reported that the new radios are working much better and the officers are reporting fewer difficulties. He also reported that all officers have been trained on the radios.

Nicosia reported that MT DOT is seeking public comment on repaving the 2.5 mile section through the City. Nicosia thought the City should comment and request that the street light poles be removed from the middle of the sidewalk so they can be properly cleared of snow and easily used by those in wheelchairs or electronic carts. Council concurred. Nicosia said she would submit the comments on behalf of the City and request the Chamber to do likewise.

MISCELLANEOUS:

A. INFORMATIONAL CORRESPONDENCE - List available for Review

B. Reports:

- a) Finance - March 2015
- b) Police Department - March 2015 Activity
- c) Court - Jan - March Activity
- d) Fire - 2014 Activity, YTD March 2015

**MISC
CORRESPON-
DENCE**

ADJOURN: Upon motion duly made by Councilman Plevel and seconded by Councilman Fisher the meeting adjourned at 8:56 p.m.

ADJOURN

Mayor

ATTEST:

City Clerk

APPROVED BY COUNCIL ACTION: May 4, 2015